

04 NCAC 24D .0303 is proposed for amendment as follows:

04 NCAC 24D .0303 ADEQUACY PENALTY DETERMINATION

(a) DES shall issue ~~an a written~~ Adequacy Penalty Determination at the end of each charging year cycle to notify the employer if the employer's of charges to its account for erroneous unemployment benefit payments identified during the charging cycle if the payments resulted from is not relieved of charges for untimely or inadequate responses as set forth in 04 NCAC 24D .0301 ~~for particular to requests for information regarding a claimant's separation from employment or status, claims during that charging year cycle, resulting from if the employer met or exceeded the an~~ adequacy threshold ~~determination in the prior charging year reporting cycle cycle, that the employer met or exceeded the adequacy threshold.~~

(b) The Adequacy Penalty Determination shall include the following:

- (1) a listing containing the specific claims that would have resulted in a relief from charges as a result of erroneous unemployment insurance payments that were later reversed on appeal; ~~and~~
- (2) instructions for protesting the Adequacy Penalty Determination; and
- (3) the date that the Adequacy Penalty Determination is mailed or sent to the employer by electronic transmission.

(c) An employer may protest its Adequacy Penalty Determination and shall file its written request with DES's ~~Tax Administration Section Claims Unit~~ by mail, facsimile, or email pursuant to ~~04 NCAC 24A .0104(n).~~ 04 NCAC 24A .0104(m).

(1) The request shall include:

- (A) the name of the employing unit;
- (B) the address of the employing unit;
- (C) the account number of the employing unit;
- (D) a ~~brief~~ statement of the question involved and reasons for the request; and
- (E) the name, address, and official position of the individual making the request.

(2) The written request shall be filed within 15 days after the date that the Adequacy Penalty Determination was mailed or provided to the employer by electronic transmission, and the timeliness requirements of 04 NCAC 24A .0106 shall apply.

(3) Following receipt of the written request, the ~~Tax Administration Section Claims Unit~~ shall review the employer's request and issue a written determination. The determination shall include the following:

- (A) notify the employing unit of whether its application was granted or denied;
- ~~(B) indicate whether additional information from the employing unit is required;~~
- ~~(C)(B)~~ explain the reasons for the ruling and identify the information considered; and
- ~~(D)(C)~~ instructions for appealing ~~the a~~ denial to ~~the Board of Review.~~ DES's Appeals Section pursuant to 04 NCAC 24A .0104(b).

History Note: Authority G.S. ~~96-4~~; 96-11.3; 96-11.4; 96-15; ~~23~~ 26 U.S.C. 3303;

- 1 *Eff. July 1, 2015;*
- 2 *Amended Eff. October 1, 2017.*